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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8 James Arnett,)
9 Plaintiff,) No. CV-12-0311-TUC-DCB-DTF
10 vs.) **ORDER**
11 Benjamin Snow Howard, et al.,)
12 Defendants.)
13)
14)

15 Plaintiff requests that the United States Marshal perform service on Defendant
16 Benjamin Snow Howard. Plaintiff has requested that Howard waive service and has
17 attempted service by certified mail, both to no avail. Because Plaintiff is proceeding *in forma*
18 *pauperis*, pursuant to 28 U.S.C. § 1915, he is entitled to request service by the marshal. Fed.
19 R. Civ. P. 4(c)(3).

20 Accordingly,

21 **IT IS ORDERED** that:

22 (1) The Clerk of Court must send Plaintiff a service packet including the Complaint
23 (Doc. 1), this Order, and both a summons and request for waiver form for Defendant
24 Benjamin Snow Howard.

25 (2) Plaintiff must complete and return the service packet to the Clerk of Court within
26 21 days of the date of filing of this Order. The United States Marshal will not provide service
27 of process if Plaintiff fails to comply with this Order.
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1 (3) If Plaintiff does not either obtain a waiver of service of the summons or complete
2 service of the Summons and Complaint on a Defendant within 120 days of the filing of the
3 Complaint, the action may be dismissed as to each Defendant not served. Fed. R. Civ. P.
4 4(m).

5 (4) The United States Marshal must retain the Summons, a copy of the Complaint,
6 and a copy of this Order for future use.

7 (5) The United States Marshal must notify Defendant Howard of the commencement
8 of this action and request waiver of service of the summons pursuant to Rule 4(d) of the
9 Federal Rules of Civil Procedure. The notice to Defendant must include a copy of this Order.
10 **The Marshal must immediately file signed waivers of service of the summons. If a**
11 **waiver of service of summons is returned as undeliverable or is not returned by a**
12 **Defendant within 30 days from the date the request for waiver was sent by the Marshal,**
13 **the Marshal must:**

14 (a) personally serve copies of the Summons, Complaint, and this Order upon
15 Defendant pursuant to Rule 4(e)(2) of the Federal Rules of Civil Procedure; and

16 (b) within 10 days after personal service is effected, file the return of service for
17 Defendant, along with evidence of the attempt to secure a waiver of service of the
18 summons and of the costs subsequently incurred in effecting service upon Defendant.
19 The costs of service must be enumerated on the return of service form (USM-285) and
20 must include the costs incurred by the Marshal for photocopying additional copies of
21 the Summons, Complaint, or this Order and for preparing new process receipt and
22 return forms (USM-285), if required. Costs of service will be taxed against the
23 personally served Defendant pursuant to Rule 4(d)(2) of the Federal Rules of Civil
24 Procedure, unless otherwise ordered by the Court.

25 (6) **A Defendant who agrees to waive service of the Summons and Complaint**
26 **must return the signed waiver forms to the United States Marshal, not the Plaintiff.**
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1 (7) Defendant must answer the Complaint or otherwise respond by appropriate
2 motion within the time provided by the applicable provisions of Rule 12(a) of the Federal
3 Rules of Civil Procedure.

4 DATED this 29th day of June, 2012.

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A handwritten signature in black ink, appearing to read "D. Thomas Ferraro", is written over a horizontal line.

D. Thomas Ferraro
United States Magistrate Judge